

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DAVID ORTIZ,
Plaintiff,
v.
STEVE FREITAS, et al.,
Defendants.

Case No. 14-cv-00322-JSC

**ORDER GRANTING MOTION FOR
PROTECTIVE ORDER**

Re: Dkt. No. 59

Plaintiff David Ortiz makes claims pursuant to 42 U.S.C. section 1983 arising from his detention at the Sonoma County Jail facility. Now pending before the Court is Plaintiff's Motion for a Protective Order (Dkt. No. 59) which seeks to enjoin Plaintiff's deposition from taking place tomorrow, October 2, 2014, at the Sonoma County Jail facility in which he is presently detained. In light of the exigency involved and based on the potential for embarrassment or oppression should the deposition go forward at the jail facility rather than the location previously agreed upon by the parties, the Court hereby GRANTS the motion for protective order pursuant to Federal Rule of Civil Procedure 26(c)(1).

DISCUSSION

Federal Rule of Civil Procedure 26(c)(1) provides that "[a] party or any person from whom discovery is sought may move for a protective order in the court where the action is pending—or as an alternative on matters relating to a deposition, in the court for the district where the deposition will be taken." The Court may grant a protective order "to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense." *Id.*

Here, the parties originally agreed that Plaintiff's deposition would take place on October 2, 2014 at APEX Suites, Courthouse Square, 1000 Fourth Street, Suite 800, San Rafael, California

94901. After the deposition was noticed, however, Plaintiff was arrested and detained at the Main Detention Facility for the Sonoma County Jail. On September 26 and 30, 2014, Defendants informed Plaintiff that they intend to proceed with the deposition on October 2, but that it would occur at the jail rather than the location previously agreed upon given Plaintiff's custody status.

Plaintiff moves for a protective order seeking to reschedule the deposition until such time as Plaintiff is not in Defendants' custody.¹ Plaintiff contends that because the jail facility is under the supervision of the named defendants it would be an intimidating and hostile setting for the deposition to occur, and further, that the location of the deposition would be the very location where the incidents underlying this action arose and he would be expected to "testify against the people presently holding him in custody under the same circumstances which give rise to the PTSD he suffers from and form the basis of his complaint." (Dkt. No. 59 at 3:8-12.)

"A district court has wide discretion to establish the time and place of depositions." *Hyde & Drath v. Baker*, 24 F.3d 1162, 1166 (9th Cir. 1994). In light of the upcoming case management conference on October 30, 2014, at which the location of Plaintiff's deposition can be more fully discussed, and Plaintiff's unexpected custody, the Court grants a protective order prohibiting the deposition from going forward on October 2, 2014. The Court also vacates the fact discovery deadline.

The parties shall be prepared to discuss this matter further at the Case Management Conference on October 30, 2014 and the Joint Case Management Conference Statement due October 23 shall provide an update regarding Plaintiff's custody status and, if possible, include a revised proposed case management schedule.

This Order disposes of Docket No. 59. No response by Defendants need be filed.

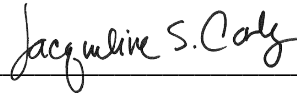
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¹ Although Plaintiff has not certified that he attempted to meet and confer with Defendants prior to bringing his motion as required by Rule 26(c)(1), given that Defendants informed Plaintiff yesterday, September 30, of their intent to proceed with the deposition at the jail, and the deposition is scheduled for tomorrow, October 2, the Court will nonetheless consider the motion.

IT IS SO ORDERED.

Dated: October 1, 2014



JACQUELINE SCOTT CORLEY
United States Magistrate Judge

United States District Court
Northern District of California

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